



April 2, 2003

ENGROSSED SENATE BILL No. 520

DIGEST OF SB 520 (Updated April 1, 2003 3:39 PM - DI 51)

Citations Affected: IC 6-1.1; IC 6-6; IC 8-22; noncode.

Synopsis: Property tax exemption for aircraft. Establishes a property tax deduction for 100% of the assessed value of aircraft: (1) owned or operated by certain air carriers or scheduled air taxi operators that have an Indiana corporate headquarters; or (2) operated to provide intrastate air service in Indiana. Provides that aircraft owned or operated by an entity with an Indiana headquarters is subject to the aircraft excise tax. Permits use of a local airport authority cumulative building fund, subject to a cumulative maximum of \$1,000,000, to facilitate and support commercial intrastate air transportation.

Effective: January 1, 2002 (retroactive); January 1, 2003 (retroactive); July 1, 2003.

**Long, Breaux, Wyss,
Young R Michael**

(HOUSE SPONSORS — MOSES, HINKLE, MAYS, BORROR)

January 23, 2003, read first time and referred to Committee on Finance.
February 27, 2003, amended, reported favorably — Do Pass.
March 3, 2003, read second time, ordered engrossed. Engrossed.
March 4, 2003, read third time, passed. Yeas 47, nays 0.

HOUSE ACTION

March 13, 2003, read first time and referred to Committee on Interstate and International Cooperation.
April 1, 2003, amended, reported — Do Pass. Recommitted to Committee on Ways and Means.

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ES 520—LS 7095/DI 51+



April 2, 2003

First Regular Session 113th General Assembly (2003)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2002 Regular or Special Session of the General Assembly.

ENGROSSED SENATE BILL No. 520

A BILL FOR AN ACT to amend the Indiana Code concerning
taxation.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 6-1.1-12.2 IS ADDED TO THE INDIANA CODE
AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
JANUARY 1, 2003 (RETROACTIVE)]:

Chapter 12.2. Deduction for Aircraft

Sec. 1. This chapter applies only to the following:

(1) Aircraft that:

**(A) have a seating capacity of not more than ninety (90)
passengers;**

**(B) are used in the air transportation of passengers or
passengers and property; and**

(C) are owned or operated by a person who is:

**(i) an air carrier certified under Federal Air Regulation
Part 121; or**

**(ii) a scheduled air taxi operator certified under Federal
Air Regulation Part 135.**

(2) Aircraft that:

(A) are used to transport only property, regardless of

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whether the aircraft is operated as a common carrier for compensation; and

(B) are owned or operated by a person who is:

(i) an air carrier certified under Federal Air Regulation Part 121; or

(ii) a scheduled air taxi operator certified under Federal Air Regulation Part 135.

Sec. 2. As used in this chapter, "abatement property" refers to aircraft described in section 1 of this chapter.

Sec. 3. As used in this chapter, "aircraft" has the meaning set forth in 49 U.S.C. 40102.

Sec. 4. As used in this chapter, "air transportation" means transportation of passengers or property by aircraft as a common carrier for compensation.

Sec. 5. As used in this chapter, "business entity" refers to a corporation (as defined in IC 6-3-1-10) or partnership (as defined in IC 6-3-1-19).

Sec. 6. As used in this chapter, "Indiana corporate headquarters" means a physical presence in Indiana of a domestic business entity that results in Indiana being the regular or principal place of business of its chief executive, operating, and financial officers.

Sec. 7. As used in this chapter, "subsidiary" means a business entity in which another business entity with an Indiana corporate headquarters has at least an eighty percent (80%) ownership interest.

Sec. 8. As used in this chapter, "taxpayer" means a business entity that:

(1) has an Indiana corporate headquarters; or

(2) is a subsidiary of a business entity with an Indiana corporate headquarters;

and that is liable under IC 6-1.1-2-4, as applied under IC 6-1.1-3 or IC 6-1.1-8, for ad valorem property taxes on abatement property.

Sec. 9. A taxpayer is entitled to a deduction from the assessed value of abatement property in each year in which the abatement property is subject to taxation for ad valorem property taxes.

Sec. 10. The amount of the deduction is equal to one hundred percent (100%) of the assessed value of the abatement property.

Sec. 11. The deduction applies to ad valorem property taxes calculated using aircraft ground times.

Sec. 12. To qualify for the deduction, the taxpayer must claim the deduction, in the manner prescribed by the department of local

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government finance, on the taxpayer's personal property tax return filed under IC 6-1.1-3 or IC 6-1.1-8 (or an amended return filed within the time allowed under this article) for the abatement property to which the deduction applies.

SECTION 2. IC 6-1.1-12.3 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003 (RETROACTIVE)]:

Chapter 12.3. Intrastate Aircraft Deduction

Sec. 1. This chapter applies only to the following:

(1) Aircraft that:

(A) have a seating capacity of not less than nine (9) passengers;

(B) are used in the air transportation of passengers or passengers and property; and

(C) are owned or operated by a person who is:

(i) an air carrier certified under Federal Aviation Regulation Part 121; or

(ii) a scheduled air taxi operator certified under Federal Aviation Regulation Part 135.

(2) Aircraft that:

(A) are used to transport only property, regardless of whether the aircraft is operated as a common carrier for compensation; and

(B) are owned or operated by a person who is:

(i) an air carrier certified under Federal Aviation Regulation Part 121; or

(ii) a scheduled air taxi operator certified under Federal Aviation Regulation Part 135.

Sec. 2. As used in this chapter "abatement property" refers to aircraft described in section 1 of this chapter.

Sec. 3. As used in this chapter, "aircraft" has the meaning set forth in 49 U.S.C. 40102.

Sec. 4. As used in this chapter, "air transportation" means transportation of passengers or property by aircraft as a common carrier for compensation.

Sec. 5. As used in this chapter, "business entity" refers to a corporation (as defined in IC 6-3-1-10) or partnership (as defined in IC 6-3-1-19).

Sec. 6. As used in this chapter, "intrastate airline service" means service provided in Indiana by an aircraft that is used during a service period in which ground time is determined for purposes of calculating ad valorem property taxes to fly:



(1) either directly:

(A) between:

(i) a qualifying medium hub airport; and

(ii) at least two (2) qualifying underserved airports; or

(B) between:

(i) two (2) qualifying commercial service airports, one (1) of which is not a qualifying underserved airport; or

(ii) a qualifying medium hub airport and a qualifying commercial service airport other than a qualifying underserved airport; and

(2) a route described in subdivision (1)(A) or (1)(B) at least five (5) times per week in each week during the service period immediately preceding an assessment date.

Sec. 7. As used in this chapter, "qualifying commercial service airport" means a commercial service airport (as defined in 14 CFR 158.3, as effective January 1, 2003) that is located in Indiana.

Sec. 8. As used in this chapter, "qualifying medium hub airport" means a medium hub airport (as defined in 14 CFR 398.2, as effective January 1, 2003) that is located in Indiana.

Sec. 9. As used in this chapter, "qualifying underserved airport" means a qualifying commercial service airport that serves a municipality that is not directly connected by an interstate highway with a municipality served by a qualifying medium hub airport.

Sec. 10. As used in this chapter, "service period" means a period beginning March 1 in a year immediately preceding an assessment date and ending on February 28 in the year containing an assessment date.

Sec. 11. As used in this chapter, "taxpayer" means a business entity that is liable under IC 6-1.1-2-4, as applied under IC 6-1.1-3 or IC 6-1.1-8, for ad valorem property taxes on abatement property.

Sec. 12. A taxpayer is entitled to a deduction from the assessed value of abatement property that is used to provide intrastate airline service between locations described in section 6(1)(A) of this chapter.

Sec. 13. A taxpayer is entitled to a deduction from the assessed value of abatement property used to provide intrastate airline service between at least two (2) locations described in section 6(1)(B) of this chapter but only if the same or another taxpayer provides intrastate airline service between locations described in section 6(1)(A) of this chapter during the same service period.

Sec. 14. The deduction applies to ad valorem property taxes

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calculated using aircraft ground times. The amount of a deduction available under section 12 or 13 of this chapter is equal to the product of:

(1) one hundred percent (100%) of the assessed value of the abatement property; multiplied by

(2) with respect to the ground time determined for purposes of calculating ad valorem property taxes for the aircraft, the quotient of:

(A) the ground time that immediately precedes a flight to an Indiana destination; divided by

(B) the total ground time.

Sec. 15. (a) Any part of an ad valorem property tax assessment attributable to ground times during a week:

(1) in which the requirements of section 6(2) of this chapter are not met; and

(2) for which noncompliance is not waived under section 16 of this chapter;

may not be deducted under section 12 or 13 of this chapter.

(b) Any part of an ad valorem property tax assessment attributable to ground times during a week in which intrastate air service described in section 6(1)(A) of this chapter is not also available may not be deducted under section 13 of this chapter.

Sec. 16. Based on:

(1) extraordinary circumstances that prevent a taxpayer from using abatement property to meet the requirements under section 6(2) of this chapter; or

(2) the start-up of service after the beginning of a service period;

the airport operator of the airports (other than a qualifying medium hub airport) that were directly affected by reduced service may waive compliance with section 6(2) of this chapter during all or part of the period in which the circumstances preventing regular service occurred. A taxpayer shall be treated as in compliance with section 6(2) of this chapter to the extent that compliance with the provision is waived under this section.

Sec. 17. To qualify for the deduction, the taxpayer must claim the deduction, in the manner prescribed by the department of local government finance, on the taxpayer's personal property tax return filed under IC 6-1.1-3 or IC 6-1.1-8 (or an amended return filed within the time allowed under this article) for the abatement property to which the deduction applies.

SECTION 3. IC 6-6-6.5-9 IS AMENDED TO READ AS



FOLLOWS [EFFECTIVE JANUARY 1, 2003 (RETROACTIVE)]:

Sec. 9. (a) The provisions of this chapter pertaining to registration and taxation shall not apply to any of the following:

(1) An aircraft owned by and used exclusively in the service of:

(i) the United States government;

(ii) a state (except Indiana), territory, or possession of the United States;

(iii) the District of Columbia; or

(iv) a political subdivision of an entity listed in clause (i), (ii), or (iii).

(2) An aircraft owned by a resident of another state and registered in accordance with the laws of that state. However, the aircraft shall not be exempt under this subdivision if a nonresident establishes a base for the aircraft inside this state and the base is used for a period of sixty (60) days or more.

(3) An aircraft which this state is prohibited from taxing under this chapter by the Constitution or the laws of the United States.

(4) An aircraft owned or operated by a person who is either an air carrier certificated under Federal Air Regulation Part 121 or a scheduled air taxi operator certified under Federal Air Regulation Part 135, unless such person is a corporation incorporated under the laws of the state of Indiana, ~~or~~ an individual who is a resident of Indiana, **or a corporation with Indiana corporate headquarters (as defined in IC 6-1.1-12.2-6).**

(5) An aircraft which has been scrapped, dismantled, or destroyed, and for which the airworthiness certificate and federal certificate of registration have been surrendered to the Federal Aviation Administration by the owner.

(6) An aircraft owned by a resident of this state that is not a dealer and that is not based in this state at any time, if the owner files the required form not later than thirty-one (31) days after the date of purchase; and furnishes the department with evidence, satisfactory to the department, verifying where the aircraft is based during the year.

(7) An aircraft owned by a dealer for not more than five (5) days if the ownership is part of an ultimate sale or transfer of an aircraft that will not be based in this state at any time. However, the dealer described in this subdivision is required to file a report of the transaction within thirty-one (31) days after the ultimate sale or transfer of ownership of the aircraft. The report is not required to identify the seller or purchaser but must list the aircraft's origin, destination, N number, date of each transaction,



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and ultimate sales price.

(8) An aircraft owned by a registered nonprofit museum, if the owner furnishes the department with evidence satisfactory to the department not later than thirty-one (31) days after the purchase date. The aircraft must be reported for registration, but the department shall issue the registration without charge.

(b) The provisions of this chapter pertaining to taxation shall not apply to an aircraft owned by and used exclusively in the service of Indiana or a political subdivision of Indiana or any university or college supported in part by state funds. That aircraft must be reported for registration, but the department will issue the registration without charge.

SECTION 4. IC 6-6-6.5-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003 (RETROACTIVE)]: Sec. 12. (a) Effective January 1, 1976, there is hereby imposed an annual license excise tax upon taxable aircraft, which tax shall be in lieu of the ad valorem property tax levied for state or local purposes. No taxable aircraft shall be assessed as personal property for the purpose of the assessment and levy of personal property or shall be subject to ad valorem taxes, beginning with taxes for the year of 1975 payable in 1976 and thereafter.

(b) Eligibility of aircraft for a deduction under IC 6-1.1-12.3 does not exempt a taxpayer from the tax imposed under this chapter on the aircraft.

SECTION 5. IC 8-22-3-25, AS AMENDED BY P.L.1-1999, SECTION 24, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 25. (a) **Subject to subsection (c)**, the board may provide a cumulative building fund in compliance with IC 6-1.1-41 to provide for the acquisition of real property, and the construction, enlarging, improving, remodeling, repairing, or equipping of buildings, structures, runways, or other facilities for use in connection with the airport ~~and~~ needed to carry out this chapter **and to facilitate and support commercial intrastate air transportation.**

(b) The board may levy in compliance with IC 6-1.1-41 a tax not to exceed:

(1) thirty-three hundredths of one cent (\$0.0033) on each one hundred dollars (\$100) of assessed value of taxable property within the district, if an eligible entity other than a city established the district or if the district was established jointly with an eligible entity that is not a city;

(2) one and thirty-three hundredths cents (\$0.0133) on each one hundred dollars (\$100) of assessed value of taxable property



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within the district, if the authority was established under IC 19-6-3 (before its repeal on April 1, 1980); and (3) for any other district not described in subdivision (1) or (2), the following:

Total Assessed Property Valuation	Rate Per \$100 Of Assessed Valuation
\$300 million or less	\$0.0167
More than \$300 million but not more than \$450 million	\$0.0133
More than \$450 million but not more than \$600 million	\$0.01
More than \$600 million but not more than \$900 million	\$0.0067
More than \$900 million	\$0.0033

As the tax is collected it may be invested in negotiable United States bonds or other securities that the federal government has the direct obligation to pay. Any of the funds collected that are not invested in government obligations shall be deposited in accordance with IC 5-13-6 and shall be withdrawn in the same manner as money is regularly withdrawn from the general fund but without further or additional appropriation. The levy authorized by this section is in addition to the levies authorized by section 11 and section 23 of this chapter.

(c) Spending under subsection (a) to facilitate and support commercial intrastate air transportation is subject to a maximum of one million dollars (\$1,000,000) cumulatively for all years in which money is spent under that subsection.

SECTION 6. [EFFECTIVE JANUARY 1, 2003 (RETROACTIVE)]
(a) IC 6-6-6.5-9, as amended by this act, applies to aircraft excise taxes and registration fees imposed under IC 6-6-6.5 after December 31, 2002.

(b) Notwithstanding IC 6-6-6.5-14, a taxpayer that, as a result of the amendment of IC 6-6-6.5-9 by this act, is required to pay in 2003 the tax imposed under IC 6-6-6.5 has until June 16, 2003, to pay the tax.

(c) This SECTION expires July 1, 2003.

SECTION 7. [EFFECTIVE JANUARY 1, 2002 (RETROACTIVE)]
(a) The definitions in IC 6-1.1-1 and IC 6-1.1-12.2 apply throughout this SECTION.

(b) As used in this SECTION, "designating body" refers to the metropolitan development commission in a county with a consolidated city.



(c) IC 6-1.1-12.2, as added by this act, applies to assessment dates after January 1, 2003, and ad valorem property taxes due and payable after January 1, 2004.

(d) The deductions provided by IC 6-1.1-12.2, as added by this act, shall be treated as applying to the assessment of abatement property in 2002 (and ad valorem property taxes on abatement property that are first due and payable in 2003) to the same extent as if IC 6-1.1-12.2, as added by this act, was in effect for calendar year 2002 if, before June 16, 2003, the taxpayer:

(1) pays for 2003 the tax imposed under IC 6-6-6.5, as amended by this act, on the abatement property; and

(2) claims the deduction against assessed valuation on an amended personal property tax return.

An amended personal property tax return filed under this subsection before June 16, 2003, shall be treated as timely filed under IC 6-1.1-3 and IC 6-1.1-8.

(e) A deduction granted under subsection (d) for property assessed in a county with a consolidated city is subject to recapture under subsections (f) and (g) if the taxpayer does not maintain a level of operations in the county that equals or exceeds the level of operations conducted in the county by the taxpayer in 2002 for at least ten (10) consecutive years beginning immediately after December 31, 2002.

(f) If the designating body determines that the taxpayer has not substantially complied with the requirements of subsection (e) in any year after December 31, 2002, and before January 1, 2013, and that the failure to substantially comply was not caused by factors beyond the control of the taxpayer (such as declines in demand for the property owner's products or services), the designating body shall mail a written notice to the taxpayer. The written notice must include the following provisions:

(1) An explanation of the reasons for the designating body's determination.

(2) The date, time, and place of a hearing to be conducted by the designating body for the purpose of further considering the taxpayer's compliance with subsection (e). The date of the hearing may not be more than thirty (30) days after the date on which the notice is mailed.

The designating body shall also mail a copy of the notice to the department of local government finance.

(g) On the date specified in the notice described in subsection (f), the designating body shall conduct a hearing for the purpose of



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1 further considering the taxpayer's compliance with subsection (e).
 2 Based on the information presented at the hearing by the taxpayer
 3 and other interested parties, the designating body shall again
 4 determine whether the taxpayer has made reasonable efforts to
 5 substantially comply with subsection (e) and whether any failure
 6 to substantially comply was caused by factors beyond the control
 7 of the taxpayer. If the designating body determines that the
 8 taxpayer has not made reasonable efforts to comply with
 9 subsection (e) and the failure to substantially comply was not
 10 caused by factors beyond the control of the taxpayer, the
 11 designating body shall adopt a resolution recapturing the
 12 taxpayer's deduction under subsection (d). If the designating body
 13 adopts a resolution recapturing a deduction under subsection (d),
 14 the amount recaptured is equal to the amount determined under
 15 **STEP FOUR** of the following formula:

16 **STEP ONE:** Determine the assessed value of the abatement
 17 property assessed in the county for the assessment dates in
 18 2002 after applying all exemptions and deductions to which
 19 the taxpayer was otherwise entitled except the deduction
 20 granted under subsection (d).

21 **STEP TWO:** Divide the assessed value determined under
 22 **STEP ONE** by one hundred.

23 **STEP THREE:** Multiply the **STEP TWO** result by the
 24 aggregate tax rate certified:

25 (A) for the taxing district that includes the place where the
 26 abatement property was assessed in 2002; and

27 (B) in the year in which the designating body determines
 28 that the taxpayer initially failed to make reasonable efforts
 29 to substantially comply subsection (e) and the failure to
 30 substantially comply was not caused by factors beyond the
 31 control of the taxpayer.

32 **STEP FOUR:** Multiply the **STEP THREE** result by:

33 (A) one hundred percent (100%), if the year determined
 34 under **STEP THREE (B)** is 2003;

35 (B) ninety percent (90%), if the year determined under
 36 **STEP THREE (B)** is 2004;

37 (C) eighty percent (80%), if the year determined under
 38 **STEP THREE (B)** is 2005;

39 (D) seventy percent (70%), if the year determined under
 40 **STEP THREE (B)** is 2006;

41 (E) sixty percent (60%), if the year determined under
 42 **STEP THREE (B)** is 2007;



(F) fifty percent (50%), if the year determined under STEP THREE (B) is 2008;

(G) forty percent (40%), if the year determined under STEP THREE (B) is 2009;

(H) thirty percent (30%), if the year determined under STEP THREE (B) is 2010;

(I) twenty percent (20%), if the year determined under STEP THREE (B) is 2011;

(J) ten percent (10%), if the year determined under STEP THREE (B) is 2012; and

(K) zero percent (0%), if the year determined under STEP THREE (B) is 2013 or thereafter.

If the designating body adopts a resolution recapturing a deduction under subsection (d), the designating body shall immediately mail a certified copy of the resolution to the taxpayer, the county auditor, the county treasurer, and the department of local government finance. The county treasurer shall immediately mail the taxpayer a statement that reflects the amount due. The amount due is payable on the due date for the next semiannual installment of ad valorem property taxes first due and payable after the date that the statement is mailed to the taxpayer. A delinquency in the repayment of a recaptured amount shall be treated and collected in the same manner as delinquent ad valorem property taxes. Money collected from a recaptured credit shall be distributed among the taxing units in the county in the same manner and in the same proportion as ad valorem property taxes levied by the taxing units.

(h) A taxpayer whose deduction is recaptured by the designating body under subsections (f) and (g) may appeal the designating body's decision by filing a complaint in the office of the clerk of the circuit or superior court of the county together with a bond conditioned to pay the costs of the appeal if the appeal is determined against the taxpayer. An appeal under this subsection shall be promptly heard by the court without a jury and determined within thirty (30) days after the time of the filing of the appeal. The court shall hear evidence on the appeal and may confirm the action of the designating body or sustain the appeal. The judgment of the court is final and conclusive unless an appeal is taken as in other civil actions.

(i) The county auditor and the department of local government finance shall exclude the amount of assessed value allowable as a deduction under subsection (d) from the assessed value used to



1 determine property tax rates of political subdivisions for property
2 taxes first due and payable in 2003 and property tax replacement
3 distributions to political subdivisions in 2003. The department of
4 local government finance shall adjust a school corporation's
5 maximum general fund levy under IC 6-1.1-19-1.5 to eliminate any
6 reduction in tuition support distributions under IC 21-3-1.7 that
7 would result from inclusion of the assessed valuation subject to a
8 deduction under subsection (d) in any year.

9 SECTION 8. An emergency is declared for this act.

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COMMITTEE REPORT

Mr. President: The Senate Committee on Finance, to which was referred Senate Bill No. 520, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, delete lines 7 through 17, begin a new line block indented and insert:

"(1) Aircraft that:

(A) have a seating capacity of not more than ninety (90) passengers;

(B) are used in the air transportation of passengers or passengers and property; and

(C) are owned or operated by a person who is:

(i) an air carrier certificated under Federal Air Regulation Part 121; or

(ii) a scheduled air taxi operator certified under Federal Air Regulation Part 135.

(2) Aircraft that:

(A) are used to transport only property, regardless of whether the aircraft is operated as a common carrier for compensation; and

(B) are owned or operated by a person who is:

(i) an air carrier certificated under Federal Air Regulation Part 121; or

(ii) a scheduled air taxi operator certified under Federal Air Regulation Part 135."

Page 2, delete lines 1 through 2.

Page 2, line 4, delete "tangible personal property" and insert **"aircraft"**.

Page 2, delete lines 13 through 15.

Page 2, line 16, delete "7." and insert **"6."**

Page 2, delete lines 21 through 22.

Page 2, line 23, delete "9." and insert **"7."**

Page 2, line 27, delete "10." and insert **"8."**

Page 2, line 34, delete "11." and insert **"9."**

Page 2, line 37, delete "12." and insert **"10."**

Page 2, line 39, delete "13." and insert **"11."**

Page 2, line 41, delete "14." and insert **"12."**

Page 3, between lines 4 and 5, begin a new paragraph and insert:

"SECTION 2. IC 6-6-6.5-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]: Sec. 9. (a) The provisions of this chapter pertaining to registration and taxation shall

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not apply to any of the following:

- (1) An aircraft owned by and used exclusively in the service of:
 - (i) the United States government;
 - (ii) a state (except Indiana), territory, or possession of the United States;
 - (iii) the District of Columbia; or
 - (iv) a political subdivision of an entity listed in clause (i), (ii), or (iii).
- (2) An aircraft owned by a resident of another state and registered in accordance with the laws of that state. However, the aircraft shall not be exempt under this subdivision if a nonresident establishes a base for the aircraft inside this state and the base is used for a period of sixty (60) days or more.
- (3) An aircraft which this state is prohibited from taxing under this chapter by the Constitution or the laws of the United States.
- (4) An aircraft owned or operated by a person who is either an air carrier certificated under Federal Air Regulation Part 121 or a scheduled air taxi operator certified under Federal Air Regulation Part 135, unless such person is a corporation incorporated under the laws of the state of Indiana, ~~or~~ an individual who is a resident of Indiana, **or a corporation with Indiana corporate headquarters (as defined in IC 6-1.1-12.2-6).**
- (5) An aircraft which has been scrapped, dismantled, or destroyed, and for which the airworthiness certificate and federal certificate of registration have been surrendered to the Federal Aviation Administration by the owner.
- (6) An aircraft owned by a resident of this state that is not a dealer and that is not based in this state at any time, if the owner files the required form not later than thirty-one (31) days after the date of purchase; and furnishes the department with evidence, satisfactory to the department, verifying where the aircraft is based during the year.
- (7) An aircraft owned by a dealer for not more than five (5) days if the ownership is part of an ultimate sale or transfer of an aircraft that will not be based in this state at any time. However, the dealer described in this subdivision is required to file a report of the transaction within thirty-one (31) days after the ultimate sale or transfer of ownership of the aircraft. The report is not required to identify the seller or purchaser but must list the aircraft's origin, destination, N number, date of each transaction, and ultimate sales price.
- (8) An aircraft owned by a registered nonprofit museum, if the

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owner furnishes the department with evidence satisfactory to the department not later than thirty-one (31) days after the purchase date. The aircraft must be reported for registration, but the department shall issue the registration without charge.

(b) The provisions of this chapter pertaining to taxation shall not apply to an aircraft owned by and used exclusively in the service of Indiana or a political subdivision of Indiana or any university or college supported in part by state funds. That aircraft must be reported for registration, but the department will issue the registration without charge.

SECTION 3. [EFFECTIVE JANUARY 1, 2004] IC 6-6-6.5-9, as amended by this act, applies to aircraft excise taxes and registration fees imposed under IC 6-6-6.5 after December 31, 2003."

Page 3, line 7, delete "2002," and insert "**2003**,".

Page 3, line 8, delete "2003." and insert "**2004**,".

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 520 as introduced.)

BORST, Chairperson

Committee Vote: Yeas 15, Nays 0.

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SENATE MOTION

Mr. President: I move that Senator Breaux be added as second author and Senators Wyss and Young R Michael be added as coauthors of Engrossed Senate Bill 520.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Interstate and International Cooperation, to which was referred Senate Bill 520, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, line 4, delete "and Related Parts and".

Page 1, delete line 5.

Page 1, line 13, delete "certificated" and insert "**certified**".

Page 2, line 5, delete "certificated" and insert "**certified**".

Page 2, line 9, after "chapter" insert ",".

Page 2, line 40, delete "includes" and insert "**applies to**".

Page 3, line 4, delete "abated" and insert "**abatement**".

Page 3, between lines 5 and 6, begin a new paragraph and insert:

"SECTION 2. IC 6-1.1-12.3 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003 (RETROACTIVE)]:

Chapter 12.3. Intrastate Aircraft Deduction

Sec. 1. This chapter applies only to the following:

(1) Aircraft that:

(A) have a seating capacity of not less than nine (9) passengers;

(B) are used in the air transportation of passengers or passengers and property; and

(C) are owned or operated by a person who is:

(i) an air carrier certified under Federal Aviation Regulation Part 121; or

(ii) a scheduled air taxi operator certified under Federal Aviation Regulation Part 135.

(2) Aircraft that:

(A) are used to transport only property, regardless of whether the aircraft is operated as a common carrier for compensation; and

(B) are owned or operated by a person who is:

(i) an air carrier certified under Federal Aviation Regulation Part 121; or

(ii) a scheduled air taxi operator certified under Federal Aviation Regulation Part 135.

Sec. 2. As used in this chapter "abatement property" refers to aircraft described in section 1 of this chapter.

Sec. 3. As used in this chapter, "aircraft" has the meaning set forth in 49 U.S.C. 40102.

Sec. 4. As used in this chapter, "air transportation" means

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transportation of passengers or property by aircraft as a common carrier for compensation.

Sec. 5. As used in this chapter, "business entity" refers to a corporation (as defined in IC 6-3-1-10) or partnership (as defined in IC 6-3-1-19).

Sec. 6. As used in this chapter, "intrastate airline service" means service provided in Indiana by an aircraft that is used during a service period in which ground time is determined for purposes of calculating ad valorem property taxes to fly:

(1) either directly:

(A) between:

- (i) a qualifying medium hub airport; and
- (ii) at least two (2) qualifying underserved airports; or

(B) between:

- (i) two (2) qualifying commercial service airports, one (1) of which is not a qualifying underserved airport; or
- (ii) a qualifying medium hub airport and a qualifying commercial service airport other than a qualifying underserved airport; and

(2) a route described in subdivision (1)(A) or (1)(B) at least five (5) times per week in each week during the service period immediately preceding an assessment date.

Sec. 7. As used in this chapter, "qualifying commercial service airport" means a commercial service airport (as defined in 14 CFR 158.3, as effective January 1, 2003) that is located in Indiana.

Sec. 8. As used in this chapter, "qualifying medium hub airport" means a medium hub airport (as defined in 14 CFR 398.2, as effective January 1, 2003) that is located in Indiana.

Sec. 9. As used in this chapter, "qualifying underserved airport" means a qualifying commercial service airport that serves a municipality that is not directly connected by an interstate highway with a municipality served by a qualifying medium hub airport.

Sec. 10. As used in this chapter, "service period" means a period beginning March 1 in a year immediately preceding an assessment date and ending on February 28 in the year containing an assessment date.

Sec. 11. As used in this chapter, "taxpayer" means a business entity that is liable under IC 6-1.1-2-4, as applied under IC 6-1.1-3 or IC 6-1.1-8, for ad valorem property taxes on abatement property.

Sec. 12. A taxpayer is entitled to a deduction from the assessed value of abatement property that is used to provide intrastate

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airline service between locations described in section 6(1)(A) of this chapter.

Sec. 13. A taxpayer is entitled to a deduction from the assessed value of abatement property used to provide intrastate airline service between at least two (2) locations described in section 6(1)(B) of this chapter but only if the same or another taxpayer provides intrastate airline service between locations described in section 6(1)(A) of this chapter during the same service period.

Sec. 14. The deduction applies to ad valorem property taxes calculated using aircraft ground times. The amount of a deduction available under section 12 or 13 of this chapter is equal to the product of:

- (1) one hundred percent (100%) of the assessed value of the abatement property; multiplied by
- (2) with respect to the ground time determined for purposes of calculating ad valorem property taxes for the aircraft, the quotient of:
 - (A) the ground time that immediately precedes a flight to an Indiana destination; divided by
 - (B) the total ground time.

Sec. 15. (a) Any part of an ad valorem property tax assessment attributable to ground times during a week:

- (1) in which the requirements of section 6(2) of this chapter are not met; and
- (2) for which noncompliance is not waived under section 16 of this chapter;

may not be deducted under section 12 or 13 of this chapter.

(b) Any part of an ad valorem property tax assessment attributable to ground times during a week in which intrastate air service described in section 6(1)(A) of this chapter is not also available may not be deducted under section 13 of this chapter.

Sec. 16. Based on:

- (1) extraordinary circumstances that prevent a taxpayer from using abatement property to meet the requirements under section 6(2) of this chapter; or
- (2) the start-up of service after the beginning of a service period;

the airport operator of the airports (other than a qualifying medium hub airport) that were directly affected by reduced service may waive compliance with section 6(2) of this chapter during all or part of the period in which the circumstances preventing regular service occurred. A taxpayer shall be treated as in

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compliance with section 6(2) of this chapter to the extent that compliance with the provision is waived under this section.

Sec. 17. To qualify for the deduction, the taxpayer must claim the deduction, in the manner prescribed by the department of local government finance, on the taxpayer's personal property tax return filed under IC 6-1.1-3 or IC 6-1.1-8 (or an amended return filed within the time allowed under this article) for the abatement property to which the deduction applies."

Page 3, line 7, delete "2004]:" and insert "2003 (RETROACTIVE)]:".

Page 4, between lines 18 and 19, begin a new paragraph and insert:
 "SECTION 4. IC 6-6-6.5-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003 (RETROACTIVE)]:
 Sec. 12. **(a)** Effective January 1, 1976, there is hereby imposed an annual license excise tax upon taxable aircraft, which tax shall be in lieu of the ad valorem property tax levied for state or local purposes. No taxable aircraft shall be assessed as personal property for the purpose of the assessment and levy of personal property or shall be subject to ad valorem taxes, beginning with taxes for the year of 1975 payable in 1976 and thereafter.

(b) Eligibility of aircraft for a deduction under IC 6-1.1-12.3 does not exempt a taxpayer from the tax imposed under this chapter on the aircraft.

SECTION 5. IC 8-22-3-25, AS AMENDED BY P.L.1-1999, SECTION 24, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 25. **(a) Subject to subsection (c),** the board may provide a cumulative building fund in compliance with IC 6-1.1-41 to provide for the acquisition of real property, and the construction, enlarging, improving, remodeling, repairing, or equipping of buildings, structures, runways, or other facilities for use in connection with the airport ~~and~~ needed to carry out this chapter **and to facilitate and support commercial intrastate air transportation.**

(b) The board may levy in compliance with IC 6-1.1-41 a tax not to exceed:

- (1) thirty-three hundredths of one cent (\$0.0033) on each one hundred dollars (\$100) of assessed value of taxable property within the district, if an eligible entity other than a city established the district or if the district was established jointly with an eligible entity that is not a city;
- (2) one and thirty-three hundredths cents (\$0.0133) on each one hundred dollars (\$100) of assessed value of taxable property within the district, if the authority was established under



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IC 19-6-3 (before its repeal on April 1, 1980); and
 (3) for any other district not described in subdivision (1) or (2),
 the following:

Total Assessed Property Valuation	Rate Per \$100 Of Assessed Valuation
\$300 million or less	\$0.0167
More than \$300 million but not more than \$450 million	\$0.0133
More than \$450 million but not more than \$600 million	\$0.01
More than \$600 million but not more than \$900 million	\$0.0067
More than \$900 million	\$0.0033

As the tax is collected it may be invested in negotiable United States bonds or other securities that the federal government has the direct obligation to pay. Any of the funds collected that are not invested in government obligations shall be deposited in accordance with IC 5-13-6 and shall be withdrawn in the same manner as money is regularly withdrawn from the general fund but without further or additional appropriation. The levy authorized by this section is in addition to the levies authorized by section 11 and section 23 of this chapter.

(c) Spending under subsection (a) to facilitate and support commercial intrastate air transportation is subject to a maximum of one million dollars (\$1,000,000) cumulatively for all years in which money is spent under that subsection."

Page 4, line 19, delete "[EFFECTIVE JANUARY 1, 2004]" and insert "[EFFECTIVE JANUARY 1, 2003 (RETROACTIVE)] (a)".

Page 4, line 22, delete "2003." and insert "2002."

(b) Notwithstanding IC 6-6-6.5-14, a taxpayer that, as a result of the amendment of IC 6-6-6.5-9 by this act, is required to pay in 2003 the tax imposed under IC 6-6-6.5 has until June 16, 2003, to pay the tax.

(c) This SECTION expires July 1, 2003."

Page 4, line 23, delete "[EFFECTIVE JANUARY 1, 2003 (RETROACTIVE)]" and insert "[EFFECTIVE JANUARY 1, 2002 (RETROACTIVE)] (a) The definitions in IC 6-1.1-1 and IC 6-1.1-12.2 apply throughout this SECTION.

(b) As used in this SECTION, "designating body" refers to the metropolitan development commission in a county with a consolidated city.

(c)".



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Page 4, line 24, delete "only".

Page 4, between lines 26 and 27, begin a new paragraph and insert:

"(d) The deductions provided by IC 6-1.1-12.2, as added by this act, shall be treated as applying to the assessment of abatement property in 2002 (and ad valorem property taxes on abatement property that are first due and payable in 2003) to the same extent as if IC 6-1.1-12.2, as added by this act, was in effect for calendar year 2002 if, before June 16, 2003, the taxpayer:

- (1) pays for 2003 the tax imposed under IC 6-6-6.5, as amended by this act, on the abatement property; and**
- (2) claims the deduction against assessed valuation on an amended personal property tax return.**

An amended personal property tax return filed under this subsection before June 16, 2003, shall be treated as timely filed under IC 6-1.1-3 and IC 6-1.1-8.

(e) A deduction granted under subsection (d) for property assessed in a county with a consolidated city is subject to recapture under subsections (f) and (g) if the taxpayer does not maintain a level of operations in the county that equals or exceeds the level of operations conducted in the county by the taxpayer in 2002 for at least ten (10) consecutive years beginning immediately after December 31, 2002.

(f) If the designating body determines that the taxpayer has not substantially complied with the requirements of subsection (e) in any year after December 31, 2002, and before January 1, 2013, and that the failure to substantially comply was not caused by factors beyond the control of the taxpayer (such as declines in demand for the property owner's products or services), the designating body shall mail a written notice to the taxpayer. The written notice must include the following provisions:

- (1) An explanation of the reasons for the designating body's determination.**
- (2) The date, time, and place of a hearing to be conducted by the designating body for the purpose of further considering the taxpayer's compliance with subsection (e). The date of the hearing may not be more than thirty (30) days after the date on which the notice is mailed.**

The designating body shall also mail a copy of the notice to the department of local government finance.

(g) On the date specified in the notice described in subsection (f), the designating body shall conduct a hearing for the purpose of further considering the taxpayer's compliance with subsection (e).



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Based on the information presented at the hearing by the taxpayer and other interested parties, the designating body shall again determine whether the taxpayer has made reasonable efforts to substantially comply with subsection (e) and whether any failure to substantially comply was caused by factors beyond the control of the taxpayer. If the designating body determines that the taxpayer has not made reasonable efforts to comply with subsection (e) and the failure to substantially comply was not caused by factors beyond the control of the taxpayer, the designating body shall adopt a resolution recapturing the taxpayer's deduction under subsection (d). If the designating body adopts a resolution recapturing a deduction under subsection (d), the amount recaptured is equal to the amount determined under STEP FOUR of the following formula:

STEP ONE: Determine the assessed value of the abatement property assessed in the county for the assessment dates in 2002 after applying all exemptions and deductions to which the taxpayer was otherwise entitled except the deduction granted under subsection (d).

STEP TWO: Divide the assessed value determined under STEP ONE by one hundred.

STEP THREE: Multiply the STEP TWO result by the aggregate tax rate certified:

(A) for the taxing district that includes the place where the abatement property was assessed in 2002; and

(B) in the year in which the designating body determines that the taxpayer initially failed to make reasonable efforts to substantially comply subsection (e) and the failure to substantially comply was not caused by factors beyond the control of the taxpayer.

STEP FOUR: Multiply the STEP THREE result by:

(A) one hundred percent (100%), if the year determined under STEP THREE (B) is 2003;

(B) ninety percent (90%), if the year determined under STEP THREE (B) is 2004;

(C) eighty percent (80%), if the year determined under STEP THREE (B) is 2005;

(D) seventy percent (70%), if the year determined under STEP THREE (B) is 2006;

(E) sixty percent (60%), if the year determined under STEP THREE (B) is 2007;

(F) fifty percent (50%), if the year determined under STEP



THREE (B) is 2008;
 (G) forty percent (40%), if the year determined under STEP THREE (B) is 2009;
 (H) thirty percent (30%), if the year determined under STEP THREE (B) is 2010;
 (I) twenty percent (20%), if the year determined under STEP THREE (B) is 2011;
 (J) ten percent (10%), if the year determined under STEP THREE (B) is 2012; and
 (K) zero percent (0%), if the year determined under STEP THREE (B) is 2013 or thereafter.

If the designating body adopts a resolution recapturing a deduction under subsection (d), the designating body shall immediately mail a certified copy of the resolution to the taxpayer, the county auditor, the county treasurer, and the department of local government finance. The county treasurer shall immediately mail the taxpayer a statement that reflects the amount due. The amount due is payable on the due date for the next semiannual installment of ad valorem property taxes first due and payable after the date that the statement is mailed to the taxpayer. A delinquency in the repayment of a recaptured amount shall be treated and collected in the same manner as delinquent ad valorem property taxes. Money collected from a recaptured credit shall be distributed among the taxing units in the county in the same manner and in the same proportion as ad valorem property taxes levied by the taxing units.

(h) A taxpayer whose deduction is recaptured by the designating body under subsections (f) and (g) may appeal the designating body's decision by filing a complaint in the office of the clerk of the circuit or superior court of the county together with a bond conditioned to pay the costs of the appeal if the appeal is determined against the taxpayer. An appeal under this subsection shall be promptly heard by the court without a jury and determined within thirty (30) days after the time of the filing of the appeal. The court shall hear evidence on the appeal and may confirm the action of the designating body or sustain the appeal. The judgment of the court is final and conclusive unless an appeal is taken as in other civil actions.

(i) The county auditor and the department of local government finance shall exclude the amount of assessed value allowable as a deduction under subsection (d) from the assessed value used to determine property tax rates of political subdivisions for property

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taxes first due and payable in 2003 and property tax replacement distributions to political subdivisions in 2003. The department of local government finance shall adjust a school corporation's maximum general fund levy under IC 6-1.1-19-1.5 to eliminate any reduction in tuition support distributions under IC 21-3-1.7 that would result from inclusion of the assessed valuation subject to a deduction under subsection (d) in any year."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 520 as printed February 28, 2003.)

KROMKOWSKI, Chair

Committee Vote: yeas 12, nays 0.

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